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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/763,917	01/23/2004	Andrew Halliday	67625	7848
48940	7590	05/08/2006		
FITCH EVEN TABIN & FLANNERY 120 S. LASALLE STREET SUITE 1600 CHICAGO, IL 60603-3406				
			EXAMINER ALEXANDER, REGINALD	
			ART UNIT 1761	PAPER NUMBER

DATE MAILED: 05/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/763,917	<b>Applicant(s)</b> HALLIDAY ET AL.	
	<b>Examiner</b> Reginald L. Alexander	<b>Art Unit</b> 1761	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 April 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-31 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11-30 is/are allowed.
- 6) ☒ Claim(s) 31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \* c) ☐ None of:  
         1. ☐ Certified copies of the priority documents have been received.  
         2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
         3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4 and 31 are rejected under 35 U.S.C. 102(b) as being anticipated by Piana.

There is disclosed in Piana a beverage cartridge, comprising: an inlet 44, for the introduction of a liquid; an outlet 28 for discharge of a beverage; an outer member 12; an inner member 18, 22 joined to the outer member; wherein the inner member comprises a discharge spout 22 having a tapered upper portion and cylindrical lower portion.

Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Bentley et al.

There is disclosed in Bentley a beverage cartridge, comprising: an inlet 26; an outlet 37; an outer member 20; an inner member 37, 40; wherein the inner member comprises a discharge spout 37 and a partition 40 extending at least part way along the length of the discharge spout.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 1761

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Piana in view of Bentley et al.

Bentley as discussed above discloses a partition 40 extending at least part way along the length of the discharge spout.

It would have been obvious to one skilled in the art to provide the cartridge of Piana with the partition disclosed in Bentley, in order to lend support to and strengthen the discharge spout.

Claims 6-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Piana in view of Bentley as applied to claim 5 above, and further in view of Knodt et al.

Knodt discloses a snap-fit arrangement between an inner and outer member 143, 126 of a beverage cartridge.

It would have been obvious to one skilled in the art to modify the cartridge of Piana, as modified by Bentley, with that taught by Knodt and provide a snap-fit arrangement between the inner and outer members, so as to allow separation of the members for easy cleaning.

Claims 3-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bentley et al. in view of Piana.

It would have been obvious to one skilled in the art to substitute the spout of Bentley with that disclosed in Piana, in order to provide an alternative arrangement for discharging brewed beverage.

***Allowable Subject Matter***

Claims 11-30 are allowed.

***Response to Arguments***

Applicant's arguments filed 12 April 2006 have been fully considered but they are not persuasive. Applicant states that the prior art fails to disclose an inner member conjoined on assembly with an outer member.

It should be noted that the method of forming a device is not germane to the issue of patentability of the device itself. Therefore, the limitation that the inner and outer members be conjoined on assembly has not been given patentable weight.

In regards to applicant's argument that the discharge spout of Piana is located on the outer member, it is the interpretation of the examiner that this member is located on the inner member as cited in the rejection above.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

Art Unit: 1761

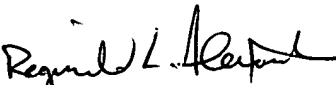
the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Reginald L. Alexander whose telephone number is 571-272-1395. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

rla  
01 May 2006

  
Reginald L. Alexander  
Primary Examiner  
Art Unit 1761